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SUBJECT: Blue Skies for Frankfurt Airport Expansion, Partly Cloudy  
for Night Flights

¶1. Summary: Construction of a fourth runway for Frankfurt Airport began at the start of 2009, following years of debate and political wrangling. The runway and a new terminal will take several years to complete, meeting Frankfurt's anticipated capacity needs through 2020 and ensuring its future as a large European hub for freight and passenger travel. Construction could only start after the Hesse Higher Administrative court ruled against objections to the project.

However the court decoupled the night flights issue from the expansion project and has opened the possibility of a complete ban on night flights or, alternatively, accepting the proposed number of flights. The suit and countersuits over night flights may drag on for several years. End Summary

#### Runway Project Takes Off

¶2. After years of waiting, Fraport, the company managing Frankfurt Airport, began building a fourth runway in early February. The runway will be built on the property formerly occupied by the U.S. Air Force's Rhein-Main base. Construction on a third terminal will begin in 2012. Fraport expects to begin using the new runway at the end of 2011, with the new terminal coming online in 2014. Current demand for flight slots exceeds supply at peak times and Fraport believes passenger traffic will increase from 55 million persons per year in 2008 to 88 million in 2020, while air freight will increase 70% in the same time period. Fraport estimates that it will spend 7 billion euros on the project.

¶3. Opposition from environmental groups and local residents delayed expansion plans and raised fears that Frankfurt would lose competitiveness to other German airports, such as Munich, and airports in Paris, London and Amsterdam. The state government led a working group, including local interest groups, which reviewed the project from 1998 to 2000 and agreed a quid pro quo with opponents. No flights would be allowed between 11 PM and 5 AM in return for no more opposition to the new runway. After the state backtracked on this promise and allowed 17 cargo flights during this time period in its 2007 expansion plan, several townships and individuals filed a temporary injunction at the Hesse Higher Administrative Court. The suits were compiled into a class action suit, but the court decoupled the night flight question from the overall plan, allowing construction to move forward.

#### Night Flights in Holding Pattern

¶4. In its preliminary ruling in January the Hesse Higher Administrative Court supported state airport planners on all issues except for night flights. The court stated that it had legal misgiving about the night flight regime and doubted that it would withstand a loser legal examination. Although the Hesse Higher Administrative Court is expected to rule on the suit in September, the parties will in all likelihood appeal to the next level, the Federal Administrative Court in Leipzig. Lufthansa (LH) has also filed litigation against the 17 night flights, arguing that LH alone needs 40 night flights. Hesse Secretary of State for Transportation Klaus-Peter Guettler estimated that a final ruling will not come for several years, at which point the project will be well advanced. If

the courts impose a night flight ban, more air carriers may initiate their own court cases. In the meantime, the airport will continue to operate as before, with an estimated 50 flights taking place at night. Protestors continue to occupy the forest around the expansion area, while police investigate an arson attack on the car of the project head.

15. State Secretary Guettler said that the 17 night flight allocation was made to balance airport needs with citizens' concerns. He worried that a total ban would seriously impede cargo flights and lead firms to relocate, as FedEx did when it announced its 2010 move to Cologne-Bonn airport. The CDU-FDP coalition government in Hesse remains fully behind the project, and the opposition SPD also recognizes the need to expand. The Federal Ministry of Transportation could end the appeal process by declaring the current plan a matter of "national interest", but such a move remains unlikely under SPD Transportation Minister Wolfgang Tiefensee. The Ministry assured the combatants some years ago that it would not intervene. Guettler acknowledged that the federal government position could be revisited if the CDU or FDP takes over the Transportation Ministry following the September 2009 general election. He also recommended to Pol Off that the U.S. Mission and other foreign governments tell the federal government they support the expansion project.

16. Comment: In moving forward with the project while the night flights debate is still pending, Fraport has presented all sides with a fait accompli. The expanded airport will require a certain number of night flights to operate at capacity and retain air carriers that require 24-hour operations. Political parties, with the exception of Greens and Left, will be loath to sacrifice the airport's economic viability to please a small number of vociferous

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constituents. However, the court's ruling is still pending, making a total night flight ban possible. End Comment.

17. This cable was coordinated with Embassy Berlin.